

mind indicates that the State grant permission to hold a lottery, whereas your language says no lotteries shall be sanctioned.

That could be read by some minds to encompass a broader scope, that any type of lottery in the State whether held by a private group or religious group or any other kind would be barred by your language, whereas the reading of the present Constitution at least in one case, would indicate it refers to an actual grant of permission to hold a lottery.

Is there any intention to broaden the definition?

THE CHAIRMAN: Delegate Sherbow?

DELEGATE SHERBOW: Delegate Scanlan, all that we attempt to do is to adopt what the present Maryland law is, but the point you raise was covered by an opinion of Attorney General Herbert R. O'Connor in 1935, where he held that the present constitutional prohibition against lottery prohibits a state lottery. That means that the lottery could not be authorized by giving authority to do so to some group as they did in the old days; it also means the state could not operate its own lottery. What we are attempting to do is to encompass the situation as it exists today.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Then your answer is, Judge Sherbow, that you are not trying to broaden the scope of the prohibition?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: Not at all, except that we do want to make sure that the language shall not authorize a grant, and that it also prevent the State itself from engaging in a lottery.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: You confuse me there, Judge Sherbow. It prohibits the State itself from engaging in a lottery and it prohibits the State itself from authorizing a lottery to be conducted by private people?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: That's right.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: There is no change in the interpretation?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: None whatever.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: I have another question.

You are aware of a case that has been argued in the Court of Appeals where a point has been raised that the present prohibition against lottery prohibits Anne Arundel County from authorizing bingo within the county.

Should the Court of Appeals agree with that contention, is it the intention of the language proposed by your Committee that bingo conducted by private groups under a specific authorization of a county such as Anne Arundel would be barred by the prohibition that you now lay before the General Assembly?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: No, actually they operate here by reason of a state statute, which took bingo, as I understand it, out of any prohibition. What happens after that, I don't know. Judge Evans was correct in the lower court. If the Court of Appeals should hold that bingo is a lottery, our view is that it is not to be prohibited under the terms of the twelve words that we are using.

In other words, bingo is not to be prevented from operating if our restraint remains in the Constitution and, assuming, of course, that the legislature permits it.

THE CHAIRMAN: Delegate Scanlan, do you have a further question?

DELEGATE SCANLAN: I do, Mr. Chairman.

Did your Committee give any thought to attempting to define lottery?

DELEGATE SHERBOW: No, we felt that it has obtained in Maryland whatever was needed, by reason of a series of attorney general opinions, and that if we were to attempt to define it, by that very effort, we would find that outside of the language that was used would be the loopholes by which it could be operated.

We are accepting the meaning as it is now generally understood.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: If, though, the Court of Appeals should define bingo to fall within the definition of lottery, am I clear in my understanding that your proposition would not go that far? That you would agree with the lower court's decision in the case to which we both referred?